

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Gerald L. Raines,  
Plaintiff

Case No. 1:04-cv-467

vs

Wanza Jackson, et al.,  
Defendants

**REPORT AND RECOMMENDATION**  
(Spiegel, J.; Hogan, M.J.)

This matter is before the Court on plaintiff's motion to voluntarily dismiss the complaint (Doc. 43), to which defendants have not responded.

Pursuant to Fed. R. Civ. P. 41(a)(2), "an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper. . . ." Unless otherwise specified in the order, a dismissal pursuant to Rule 41(a)(2) is without prejudice. *See* Fed. R. Civ. P. 41(a)(2). Plaintiff alleges he is unable to further litigate this case and wishes to dismiss this action. For cause shown, plaintiff's motion to voluntarily dismiss should be granted.

**IT IS THEREFORE RECOMMENDED THAT** plaintiff's motion to voluntarily dismiss the complaint (Doc. 43) be **GRANTED**.

Date: 5/16/2005

s/Timothy S. Hogan  
Timothy S. Hogan  
United States Magistrate Judge

**NOTICE TO THE PARTIES REGARDING THE FILING OF OBJECTIONS TO THIS  
R&R**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **TEN (10) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **TEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

1:04 cv 467 doc. # 44

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